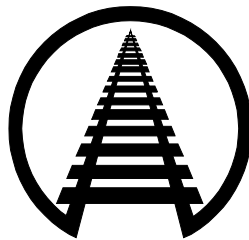


STATEMENT OF
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BEFORE THE
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEE ON RAILROADS

HEARING ON
RAILROAD INFRASTRUCTURE POLICY

APRIL 25, 2001

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Introduction

On behalf of the Association of American Railroads (AAR), I appreciate the opportunity to address this subcommittee on the topic of railroad infrastructure. The AAR is the primary trade association representing the interests of major North American railroads. Our members account for the vast majority of rail mileage, rail employees, and rail revenue in Canada, Mexico, and the United States.

The focus of today's hearing is vitally important — not only for railroads, but also for our nation as a whole. As Secretary Mineta recently remarked to the full House Committee on Transportation and Infrastructure, transportation is key to the success of virtually every business in America. If freight railroads are to continue to provide safe, efficient, and cost effective transportation service that enhances the domestic and global competitiveness of our nation, our industry's critical infrastructure needs must be met.

Specific attention should be directed to short line railroads. Short line railroads perform the vital task of connecting rural areas to the national rail network. However, the infrastructure of many of these smaller, lower density railroads cannot support the operation of the rapidly increasing number of heavier rail cars that railroads require to offer competitive, economical service to their customers. Absent outside sources of funding, many of these companies will be unable to upgrade their lines — which may eventually face abandonment. If this happened, countless communities would be cut off from the national rail network, resulting in severe economic displacement. To address this problem, AAR urges Congress to pass H.R. 1020, which would provide \$350 million annually for three years to help smaller railroads meet the infrastructure challenge of “286,000-pound” cars and aid in the economic support of rural America. In addition, restrictions to implementation of the Railroad Rehabilitation and Improvement Financing

Program (Section 7203 of the Transportation Equity Act for the 21st Century, or TEA-21) should be removed so that federal direct loans and loan guarantees can be made available for the purpose of developing, improving, and rehabilitating the infrastructure of the smaller railroads.

Prior to Deregulation, Rail Investment Was Woefully Deficient, but Deregulation Gave Railroads the Means to Invest

As U.S. freight railroads well remember from their experiences in the years before the Staggers Rail Act of 1980, railroad infrastructure deteriorates inexorably when railroads are capital-starved. In fact, the primary stimulus for railroad economic reform legislation enacted during the 1970s and in 1980 was the realization that, largely because of inadequate infrastructure investment, the rail industry was no longer a self-sustaining, viable component of the U.S. transportation system.

Prior to passage of Staggers Act, stifling and counterproductive regulation prevented railroads from earning revenues sufficient to allow adequate infrastructure investment. Between 1970 and 1979, for example, the rail industry's rate of return on net investment never exceeded 2.9 percent and averaged 2.0 percent — well below what a child could earn on a passbook savings account. During the 1970s, virtually every major railroad in the Northeast, as well as several major Midwest railroads, were forced into bankruptcy.

Predictably, because railroads lacked adequate capital, rail infrastructure suffered enormously. By 1976, more than 47,000 route-miles had to be operated at reduced speeds because of dangerous conditions. Ancient bolted rails were supported by badly deteriorated ties, and crumbling ballast was inadequate to maintain proper drainage and

protect the roadway. In the worst places, there were “standing derailments,” in which stationary railcars simply fell off poorly maintained track. Congress estimated that, absent meaningful change, the rail industry’s capital shortfall would approach \$20 billion by the mid-1980s (equal to some \$30 billion in today’s dollars).

It is no overstatement to say that freight rail transportation in this country was saved by the passage of the Staggers Act. In enacting Staggers, Congress recognized that regulation prevented railroads from earning adequate revenues and competing effectively. Survival of the railroad industry required a new regulatory scheme that allowed railroads to establish their own routes, tailor their rates to market conditions, and differentiate rates on the basis of demand. By giving railroads the opportunity to earn revenues sufficient to cover their cost of operations, deregulation sparked an industry transformation. In the 20 years since Staggers, rail income has increased, and with that has come the ability to invest anew in rail infrastructure. Higher investment has led, in turn, to greater efficiency, improved safety, better service, and sharply lower rates for rail customers.

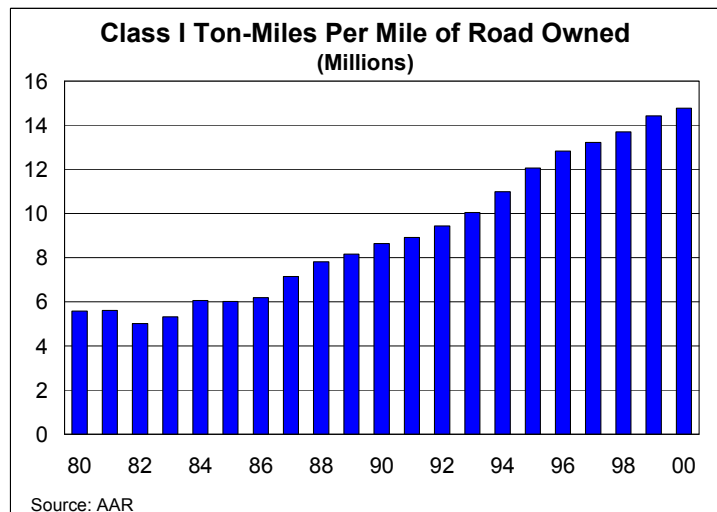
Enhancing Infrastructure Efficiency

The railroad industry entered the 1980s with significant low-density trackage. A 1977 study found that 33 percent of the railroad’s route miles, or about 60,000 miles of road, generated less than 2 percent of the railroad revenue ton-miles. These low-density lines were a severe drag on railroad profitability, and their continued operation was simply incompatible with the dictates of the intensely competitive environment in which railroads found themselves. Simply put, the marketplace then — as today — would not allow railroads the luxury of operating redundant main lines or maintaining a network of lightly-operated branch lines.

In a belated but welcome recognition of this reality, the Staggers Act made it easier for railroads to divest themselves of unprofitable lines. Between 1980 and 2000, Class I railroads reduced their miles of road owned by more than 65,000 miles, thereby significantly reducing costs and allowing them to concentrate their resources on improving the remaining parts of their networks.¹ Many of the former Class I miles were taken over by short line or regional railroads whose lower cost structure permitted them to operate at a profit where Class I railroads could not. Of the 546 non-Class I freight railroads in operation in 1999, 359 were formed in 1981 or later, and the vast majority operate mileage once owned by a Class I railroad. These short line and regional railroads, which operated nearly 50,000 miles of road and employed nearly 24,000 workers in 1999, preserve rail service and rail jobs that otherwise would be lost.

At the same time that rail mileage has been falling, rail traffic has been rising. For example, ton-miles — the movement of a ton of freight one mile, a standard freight volume measurement — for Class I railroads rose from 919 billion in 1980 to 1.47 trillion in 2000, a 60 percent increase.

The concurrent rationalization of low density rail mileage and the increase in traffic volume means that the rail network



¹ Railroads are classified on the basis of operating revenue. The largest railroads are classified as “Class I.” The threshold for categorization as a Class I carrier has changed significantly over time. In 1999, Class I railroads were those with operating revenue of at least \$258.5 million. Data herein are the most current available, which in some cases are 2000 and others are 1999. All 2000 data are preliminary.

is used more intensively and far more productively today than in the past. Ton-miles per mile of road owned rose from 5.6 million in 1980 to 14.8 million in 2000, a 165 percent increase. Because of increased traffic, numerous heavily used corridors are basically running at full track capacity today.

Of course, railroads also constantly strive to improve the efficiency of the infrastructure they retain. Advances in signaling systems, for example, allow more trains to safely operate on a section of track. Where it makes economic and operational sense to do so, railroads commonly voluntarily agree to share track, equipment, and even dispatching centers. (Some 18 percent of U.S. rail mileage consists of trackage rights, under which one or more railroads have authority to operate over track owned by another railroad.) And where possible, railroads are increasingly relying on such techniques as improved scheduling and operational guarantees. All of these efforts and more are aimed at making the existing rail infrastructure work better for railroads and their customers.

The rail record bears witness to the success railroads have achieved in this regard. Rail traffic in 2000 (measured in ton-miles) was 60 percent higher than it was 20 years ago. During this period of huge traffic expansion — when railroads carefully managed their costs and generated enormous productivity growth — operating expenses fell 41 percent on an inflation adjusted basis, while productivity (broadly measured as revenue ton-miles per constant-dollar operating expense) rose an astounding 172 percent. Because of the intense competition railroads face, operating revenue declined 36 percent after adjusting for inflation. Today, railroads account for

Class I Railroad Performance: 1980-2000

Traffic (Ton-Miles)	60%
Operating Expenses (constant dollars)	-41%
Operating Revenue (constant dollars)	-36%
Productivity	172%

some 40 percent of total intercity freight ton-miles, but account for less than 10 percent of intercity freight revenue.

Railroads Are Extremely Capital Intensive

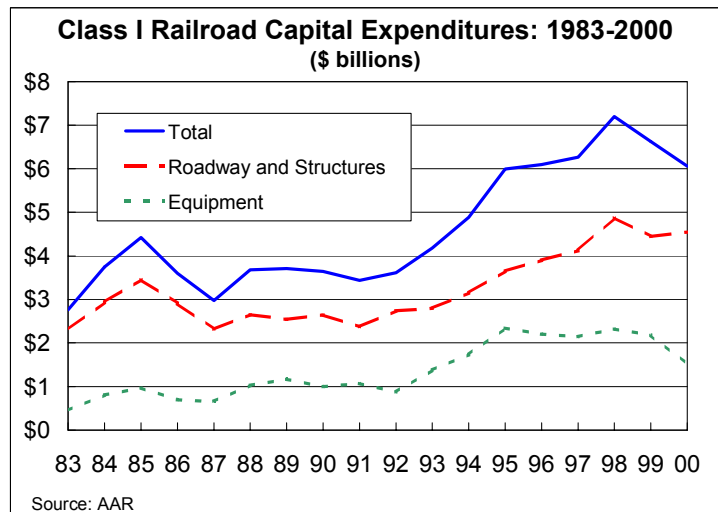
The railroad industry's problems prior to deregulation underscored the reality that rail transportation requires vast levels of investment for infrastructure such as track, signals, and structures; for communications and data processing; for locomotives and freight cars; and for technology research, development, and implementation.

From 1983 to 2000, Class I railroads alone spent nearly \$83 billion on capital expenditures, including \$6.1 billion in 2000.² Over this period, capital spending on rail infrastructure totaled more than \$58

billion; capital spending on equipment totaled \$25 billion. On a per mile basis, total capital expenditures were more than \$61,000 in 2000, well over twice the comparable inflation-adjusted 1983 figure.

In addition to capital

expenditures, railroads spend huge sums each year for routine repair and maintenance expenses. The physical changes brought about by expensed and capitalized projects are often identical; the main difference is their accounting treatment. Railroads typically spend \$4 to \$5 billion per year on infrastructure repair and maintenance, and another \$6 to \$7 billion per year on repair and maintenance related to equipment.



Considering both capitalized and expensed projects (and after accounting for depreciation), railroads typically spend \$6 to \$7 billion per year on infrastructure and another \$7 to \$8 billion per year on equipment. This extraordinary level of funding — in 2000 alone, it totaled \$15.3 billion, equal to 45 percent of the industry’s operating revenues — is required year after year to provide the high quality assets necessary for the rail industry to operate efficiently.

Appendix 1 details railroad infrastructure and equipment outlays by year from 1991 to 2000. Total outlays were \$142.8 billion over this period; outlays since 1980 were \$278.5 billion. Appendix 2 details railroad spending in 2000 by specific category. Rail and other track material, ties, ballast, signals, and grading account for the vast majority of railroad infrastructure spending. Locomotives and freight cars comprise most equipment spending.

By any of a number of different measures, the capital intensity of the freight railroad industry is at or near the top among all U.S. industries. For example, no major U.S. industry spends more on capital expenditures as a percentage of annual revenue than railroads. In 1999, railroad capital spending of \$6.6 billion was approximately 20 percent of industry revenue

**Capital Expenditures
as a Percentage of Revenue for
Various U.S. Industries: 1999***

All manufacturing	3.7%
Petroleum & coal products mfg	2.7%
Transportation equip. mfg	2.8%
Food manufacturing	3.1%
Wood product mfg	3.1%
Machinery mfg	3.4%
Fabricated metal product mfg	3.8%
Primary metal product mfg	3.9%
Paper manufacturing	4.5%
Computer & electr. product mfg	4.7%
Chemicals manufacturing	5.0%
Nonmetallic mineral product mfg	5.5%
Class I Railroads	19.8%

*Most recent year available for non-rail industries
Source: U.S. Bureau of the Census, AAR

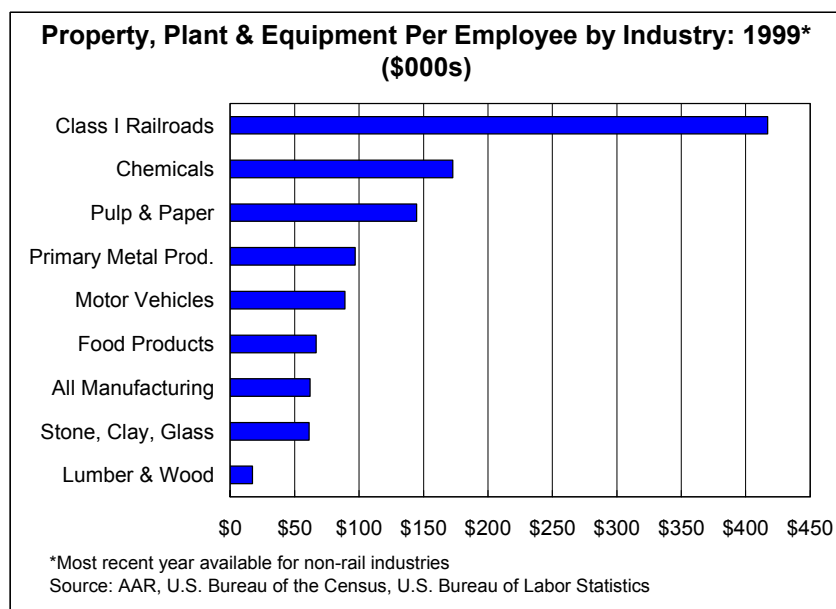
— more than five times the 3.7 percent average for the manufacturing sector as a whole.

² The first year under which depreciation accounting was used for roadway investments. Data from earlier years are not directly comparable to figures from 1983 forward.

Similarly, the rail industry's capital needs exceed those of other industries when measured by assets required per dollar of revenue produced. Based on Fortune 500 data, U.S. railroads have significantly higher asset needs — \$2.64 of assets for each dollar of revenue produced in 2000 — than other major U.S. industrial sectors that are either railroad competitors or significant railroad customers.

Ratio of Assets to Revenues of Fortune 500 Firms for Selected Industry Groups: 2000				
	Number of Firms	Total Revenues (\$ Billions)	Total Assets (\$ Billions)	Ratio of Assets to Revenues
Railroads	4	\$35.8	\$94.3	2.64
Gas & electric utilities	35	276.2	655.6	2.37
Publishing, printing	6	28.1	44.4	1.58
Motor vehicles & parts	14	494.4	690.2	1.40
Forest & paper products	10	114.0	157.4	1.38
Mining, crude oil production	5	40.2	55.1	1.37
Building materials, glass	4	17.8	24.2	1.36
Metals	6	45.9	59.5	1.29
Chemicals	14	120.9	145.6	1.20
Industrial & farm equipment	12	89.2	98.2	1.10
Trucking	3	15.1	10.0	0.66
Food consumer products	13	105.9	65.6	0.62
Food production	6	59.0	32.8	0.55
Source: <i>Fortune</i> , April 16, 2001				

Finally, as shown on the chart on the following page, railroad net investment in plant and equipment per employee is far higher than other industries. The figure for railroads (\$417,000) is nearly seven times the average for all manufacturing (\$62,000) and nearly two and a half times higher than chemicals, the leader in the manufacturing sector.

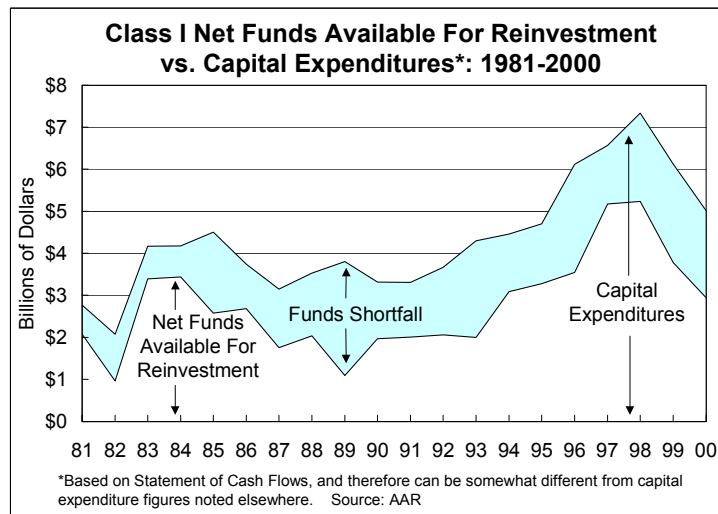


Sources of Funding of Railroad Infrastructure Investment

Importantly, unlike other transportation modes, railroads have relied overwhelmingly on private financing, not government funds, to pay for their infrastructure investments (and equipment). In fact, if the funds railroads spent on their infrastructure in 2000 were raised through a fuel tax, railroads would have had to pay approximately \$2.05 per gallon — an amount equivalent to some four to ten times the tax paid by competing modes to partially cover their cost responsibility for publicly-built and operated infrastructure. Moreover, railroads pay hundreds of millions of dollars per year in property taxes on their infrastructure, a burden not borne by railroad competitors that use publicly-financed rights-of-way.

Because major U.S. freight railroads currently receive no appreciable government funding, they must earn enough year after year to cover their massive spending requirements. However, the industry's internal cash flow is not sufficient to sustain the capital investment railroads require, so railroads must access the outside capital markets

every year. From 1981 to 2000, approximately 63 percent of Class I railroads' capital expenditures was provided from internally-generated funds and 37 percent from external capital providers. The "funds shortfall" over this period was nearly \$32 billion, highlighting both the importance that access to outside capital has to the railroad industry and the dangers that would be involved if access was threatened by short-sighted legislation or other means.



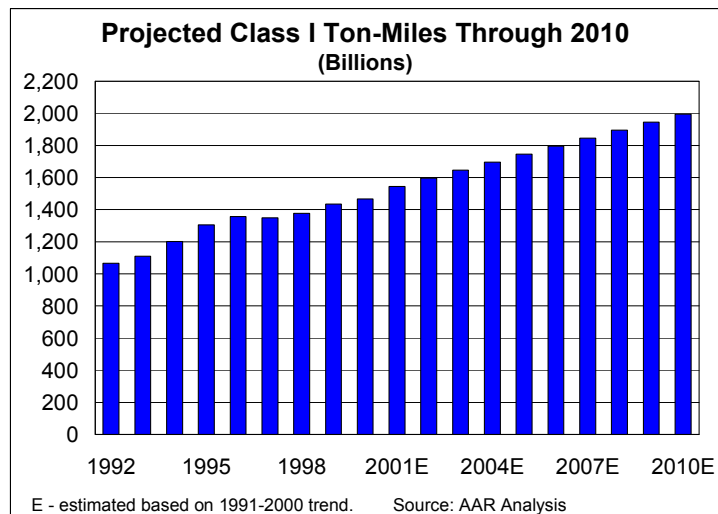
The rail industry's limited ability to fund infrastructure investment from earnings is a reflection of the historically low profitability of the industry. U.S. freight railroads have consistently failed to earn their cost of capital, and rail profitability consistently ranks in the bottom quartile among all U.S. industries.

Looking to the Future

Freight railroads will have to continue to spend enormous sums on their infrastructure in the coming decade in order to meet the rail transportation needs of this nation. However, the industry faces a number of potential problems and hard questions that will challenge its ability to make the investments in infrastructure necessary to meet all of the demands for service that the industry will face.

Traffic Growth

The current economic slowdown notwithstanding, the long-term growth in demand for rail service will clearly continue. A recent federal transportation advisory group, for example, stated that transportation demand (both passenger and freight) is predicted to double in the next 20 years. Recognizing that traffic projections are imprecise, if we assume that railroad ton-mile growth over the next ten years will match its growth over the previous ten years, railroads would be hauling two trillion ton-miles of traffic by 2010. Even if growth over the next ten years is only half what it was over the previous ten years, railroads would still haul more than 1.75 trillion ton-miles by 2010, a gain that would represent a significant increase from current levels.



Moreover, as traffic congestion on our highways becomes even more acute and pressure to reduce emissions, conserve fuel, and promote safety continues to increase, railroads are likely to be called upon to do even more based on their advantages over other modes. On average, railroads are around three times more fuel efficient than trucks. Further, the Environmental Protection Agency (EPA) estimates that for every ton-mile, a typical truck emits roughly three times more nitrogen oxides and particulates than a locomotive. Other studies suggest that trucks emit six to 12 times more pollutants per ton-mile than do railroads, depending upon the pollutant measured. According to the

EPA, railroads account for just 7 percent of total transportation-related NOx emissions and less than 5 percent of transportation-related particulate emissions — even though railroads account for 40 percent of the nation’s intercity freight ton-miles.

And, of course, rail customers will continue to demand ever-increasing levels of service, a factor that will further impel railroads to invest in service-enhancing infrastructure projects.

The bottom line is that railroads will have to continue to be aggressive in their investment in order to match infrastructure with traffic and service levels.

Passenger Operations

Freight railroads also face significant demands for access to rail infrastructure in connection with both intercity and commuter passenger operations. Amtrak currently provides passenger service to more than 500 stations in 45 states — a network covering more than 22,000 miles of road — yet Amtrak owns only approximately 730 route miles. The remainder of Amtrak’s service operates over rail lines owned by freight railroads. Additionally, many of our metropolitan areas have commuter rail service, with significant portions operating over freight railroads (see Appendix 3, Map 1).

The demand for additional passenger service is widespread and growing. Commuter rail is increasingly called on to enhance mobility and reduce congestion throughout the country. Most of the commuter agencies are planning to increase the frequency of their service, and several are planning to extend existing lines or add new lines (see Appendix 3, Map 2). Public pressure for commuter service is mounting in cities around the country: to date, we have identified 29 cities in which one or more groups have proposed new commuter rail operations. In addition, planning and research

continue for the introduction of high speed rail systems throughout the country.

Moreover, 11 corridors have been designated by the Department of Transportation under the provisions of TEA-21 (see Appendix 3, Map 3). Essentially all of these commuter and high speed proposals would involve service over existing freight lines, or acquisition of part of a freight railroad right-of-way to permit construction of passenger tracks.

Freight railroads recognize the potential public benefits of passenger service and make every effort to accommodate such operations when mutually beneficial agreements can be made through arms-length negotiations. The existence of many successful passenger operations on freight-owned property today makes this point clear. Some examples of such cooperative ventures include:

1. Chicago – Metra contracts with Union Pacific (UP) to operate three major commuter rail lines and with Burlington Northern Santa Fe (BNSF) to operate one major line into downtown Chicago. It also leases lines from Illinois Central (IC), Norfolk Southern (NS), and Wisconsin Central (WC), over which it runs its own commuter trains. Recent agreements include line extensions over UP and NS and a double-tracking project with increased train frequencies over WC.
2. Seattle – In 2000, Sound Transit reached a major agreement with BNSF for commuter rail service and physical plant improvements over BNSF tracks between Seattle and Tacoma. The service is expected to extend to Everett on the north and Lakeview to the south. UP is also involved with a second phase of the operations.
3. Sacramento-Oakland-San Jose and San Jose-Stockton – The Capitol Corridor Joint Powers Authority contracts with UP and with Amtrak for Amtrak to operate passenger service over UP track between Sacramento and San Jose via Oakland. The corridor is the fastest growing passenger rail corridor in the country. A recent agreement covers major new capital investments, increased train frequencies, maintenance, and service standards. Altamont Commuter Express reached agreement with UP and started service in 1998 over the San Jose-Stockton line. The parties are currently negotiating increased train frequencies and additional capital investment.

4. Washington, DC – Virginia Railway Express (VRE) contracts with Amtrak to operate commuter trains over CSX from Fredericksburg, Virginia and over NS from Manassas, Virginia into Washington, DC. VRE recently reached agreement with the two freight railroads for increased train frequencies and additional capacity investments over these lines.
5. Boston – Massachusetts Bay Transportation Authority and CSX recently reached agreement for increased train frequencies permitted by additional capital investment (double tracking and crossovers) over the CSX line between Framingham and Worcester. The parties have also been negotiating extension of commuter service to Greenbush, Fall River, and New Bedford.

Owning freight railroads insist, though, that passenger service not degrade their ability to serve their freight customers. Unfortunately, many commuter rail proponents assume that they can use freight tracks as a way of solving their commuter problems without considering the effect that commuter operations would have on freight operations. For example, the American Public Transit Association has called for legislation that could force commuter rail onto freight railroads' tracks. This ignores the fundamental fact that freight railroads' rights-of-way are private, not public. Commuter rail proposals can only be meaningfully implemented if they derive from a partnership between the host railroad and the commuter interests, and address all the critical issues, including freight capacity and full compensation.

Indeed, proponents of passenger rail must understand that to arbitrarily superimpose passenger operations on the freight rail network without regard for the needs of freight railroads would compromise safety and hamstring the efficiency and financial health of the nation's freight delivery system. Certainly, the goal of reducing pollution and highway congestion by expanding rail passenger service will not be realized if passenger trains interfere with freight service and force thousands of truckloads of freight back onto the highways.

Infrastructure capacity is a critical issue in determining the feasibility of running passenger trains on freight-owned track. Freight railroads are in the business of transporting freight and the infrastructure to perform that function is limited. As indicated previously, some freight corridors have no capacity available for passenger operations. In other corridors, expected increases in freight traffic will consume available capacity, precluding passenger operations unless capacity is expanded. Capacity expansion requires a thorough analysis of the effect that proposed passenger service would have on existing and future freight operations, and the investments required to ensure safe operations that do not impede the owning freight railroad.

Moreover, rail infrastructure configured for the relatively slow speeds of long, heavy freight trains is often incompatible with the requirements of higher speed, lighter weight passenger trains. Curves, for example, that are configured to handle slow moving freight trains must be modified to allow higher speed passenger trains to travel on them without derailing and without discomforting the passengers. Likewise, communication and signaling systems connected to grade crossing warning systems must be modified for higher speed passenger trains in order to ensure adequate warning to motorists. Additional sidings to permit freight trains to pull over to allow typically higher-priority passenger trains to pass would need to be built. These are just a few of the many examples of engineering and maintenance standards that must be addressed before passenger trains can use tracks designed for freight operations.

How capacity expansions and upgrades are funded is a critical issue. How best to fund such initiatives can only be meaningfully determined based on the facts and circumstances of the individual passenger proposals. Nevertheless, there is clearly no

reason to expect that freight railroads should bear the cost responsibility, or to suffer detrimental impacts on freight operations because of the proposed passenger service.

Capacity Expansion

Railroads are constantly looking for ways to enhance the efficiency of their infrastructure assets. Where it makes economic and operational sense, for example, two or more railroads might decide to voluntarily share a single section of track, allowing maintenance and operational expenses to be shared. These types of cooperative arrangements will continue, as will technological advances in signaling, communications, metallurgy, maintenance techniques, and other areas of rail infrastructure operations.

Most knowledgeable people would agree, however, that the most readily attainable gains in these areas have already been made. That is not to say that railroads will not continue to make incremental gains, but the gains are likely to be evolutionary, not revolutionary. Consequently, passenger operations aside, in order to alleviate the capacity constraints that are significant now in some rail corridors — and destined to become significant in additional corridors in the future — railroads will almost certainly have to lay more track, install new signaling systems, and make other investments to expand the capacity of their infrastructure.

Railroad Financial Pressures

As noted earlier, U.S. railroads depend on access to capital markets to fund a substantial portion of their investment needs. It is a fact of economic life, however, that the investment community demands that railroads provide a return equivalent to returns foregone from alternative investments of similar risk. Because of the intense competition they face for the vast majority of their traffic, railroad earnings have historically been

low. Lower earnings means lower returns to providers of capital, and with that comes pressure on railroads to increase their returns — through, for example, limiting capital expenditures. Railroads will continue to face pressure from the investment community to utilize funds in a way that maximizes return on investment. To the extent that capital spending yields sub-par returns, it will inevitably suffer as stockholders dictate other uses for the funds.

Reregulation

As members of this committee well know, certain groups are calling for changes in the existing system of economic regulation of railroads in this country. There are various proposals, but the objectives are the same — to have the government force railroads to lower their rates to certain favored shippers at the expense of other shippers, rail employees, rail investors, and the public at large.

It is beyond the scope of this testimony to explain in detail why railroad reregulation is such a terrible idea. The essential point is that artificial and unrealistic restrictions that impede the railroads' opportunity to generate sufficient returns will severely compromise their ability both to generate investment funds internally and to attract the outside capital needed to sustain — much less increase — their operations over the long term.

Railroads must be able to offer investors returns comparable to what the investors could expect if they invested their funds elsewhere at comparable risk. As one Wall Street analyst recently stated, "Capital flows to the areas of highest return. If ... new regulations change the rules of the game and ensure poor returns, then the Street will

disinvest (or further disinvest), causing managements to begin to reallocate cash and begin ‘harvesting’ the business. They will have no choice.”

It is hardly in the interest of our nation to set in motion the “harvesting” of our rail network. It is hard to see any alternatives, though, given that various regulatory changes being discussed would result in billions of dollars in reduced railroad revenue.

Ultimately, if railroads are reregulated, the only realistic alternative to wholesale disinvestment of our nation’s rail network would be for the government to step in and subsidize railroads on a massive scale.

Federal Infrastructure Assistance

I hope the foregoing has made it clear that no one can predict with full confidence that our nation’s rail infrastructure, railroad efforts notwithstanding, will be able to accommodate all the demands expected of it in the coming years. Much will depend on actions by members of this committee and others involved in railroad legislation and regulation. Closing the door on railroad reregulation would be an excellent first step. But more is needed.

I’ve already mentioned the need to pass H.R. 1020 to support the needs of short line railroads. I also mentioned the need for government support of improvements necessary to enable passenger service on freight-owned track, where agreement on such operations can be mutually structured through private sector negotiations between the involved parties. There may be other times when governmental assistance to rail infrastructure is appropriate. For their part, Class I railroads will continue to consider participating in public/private financing partnerships for infrastructure improvements

where the fundamental purpose of the projects is to provide public benefits or meet public needs.

Conclusion

We all know that our nation's global economic supremacy is derived in large part from transportation resources that are second to none. Freight railroads are an indispensable element of those transportation resources. Going forward, we must ensure that our transportation infrastructure remains capable of handling the increasing demands placed upon it. The freight railroad industry is committed to expending the resources needed to continue to improve service, expand capacity, advance safety, and offer their customers reasonable rates. That cannot happen, however, if the government takes revenue from freight railroads and redistributes it to shippers (via reregulation) or provides for commuter rail access to freight railroad property outside of arms-length negotiations between the parties and without properly addressing such fundamental considerations as freight capacity and full compensation.